

Bill No. SB 1474

Barcode 981130

591-1949A-06

Proposed Committee Substitute by the Committee on Criminal Justice

1 A bill to be entitled
2 An act relating to reemployment after
3 retirement; amending s. 943.1395, F.S.;
4 limiting the terms of reemployment for certain
5 law enforcement, correctional, and correctional
6 probation officers; conforming
7 cross-references; amending s. 943.22, F.S.;
8 conforming a cross-reference; providing an
9 effective date.

10

11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Section 943.1395, Florida Statutes, is
14 amended to read:

15 943.1395 Certification for employment or appointment;
16 concurrent certification; reemployment or reappointment;
17 reemployment after retirement; inactive status; revocation;
18 suspension; investigation.--

19 (1) The commission shall certify, under procedures
20 established by rule, any person for employment or appointment
21 as an officer if:

22 (a) The person complies with s. 943.13(1)-(10); and

23 (b) The employing agency complies with s. 943.133(2)
24 and (3).

25 (2) An officer who is certified in one discipline and
26 who complies with s. 943.13 in another discipline shall hold
27 concurrent certification and may be assigned in either
28 discipline within his or her employing agency.

29 (3) Any certified officer who has separated from
30 employment or appointment and who is not reemployed or
31 reappointed by an employing agency within 4 years after the

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1 date of separation must meet the minimum qualifications
2 described in s. 943.13, except for the requirement found in s.
3 943.13(9). Further, such officer must complete any training
4 required by the commission by rule. Any such officer who is
5 not reemployed or reappointed by an employing agency within 8
6 years after the date of separation must meet the minimum
7 qualifications described in s. 943.13, to include the
8 requirement of s. 943.13(9).

9 (4) A law enforcement officer, correctional officer,
10 or correctional probation officer seeking appointment,
11 reappointment, employment, or reemployment with the same
12 employing agency from which the law enforcement officer,
13 correctional officer, or correctional probation officer
14 retired under chapter 121 may be appointed, reappointed,
15 employed, or reemployed only at the lowest rank and pay scale
16 for a certified law enforcement officer, correctional officer,
17 or correctional probation officer within that employing
18 agency. The period of service at the lowest rank and pay scale
19 must be for a minimum of 3 years. The certification of a law
20 enforcement officer, correctional officer, or correctional
21 probation officer who violates the provisions of this
22 subsection shall become inactive. This subsection does not
23 otherwise limit the employment or appointment opportunities
24 for the law enforcement officer, correctional officer, or
25 correctional probation officer at any other employing agency.
26 This subsection does not change the applicable limitations in
27 s. 121.091(9).

28 (5)(4) The certification of an officer who fails to
29 comply with s. 943.135(1) shall be inactive, and the officer
30 may not be employed or appointed as an officer until he or she
31 complies with the provisions of s. 943.135(1).

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1 ~~(6)~~~~(5)~~ The employing agency must conduct an internal
2 investigation if it has cause to suspect that an officer is
3 not in compliance with, or has failed to maintain compliance
4 with, s. 943.13(4) or (7). If an officer is not in compliance
5 with, or has failed to maintain compliance with, s. 943.13(4)
6 or (7), the employing agency must submit the investigative
7 findings and supporting information and documentation to the
8 commission in accordance with rules adopted by the commission.
9 The commission may inspect and copy an employing agency's
10 records to ensure compliance with this subsection.

11 ~~(7)~~~~(6)~~ The commission shall revoke the certification
12 of any officer who is not in compliance with the provisions of
13 s. 943.13(4) or who intentionally executes a false affidavit
14 established in s. 943.13(8), s. 943.133(2), or s. 943.139(2).

15 (a) The commission shall cause to be investigated any
16 ground for revocation from the employing agency pursuant to s.
17 943.139 or from the Governor, and the commission may
18 investigate verifiable complaints. Any investigation initiated
19 by the commission pursuant to this section must be completed
20 within 6 months after receipt of the completed report of the
21 disciplinary or internal affairs investigation from the
22 employing agency or Governor's office. A verifiable complaint
23 shall be completed within 1 year after receipt of the
24 complaint. An investigation shall be considered completed
25 upon a finding by a probable cause panel of the commission.
26 These time periods shall be tolled during the appeal of a
27 termination or other disciplinary action through the
28 administrative or judicial process or during the period of any
29 criminal prosecution of the officer.

30 (b)1. The report of misconduct and all records or
31 information provided to or developed by the commission during

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1 the course of an investigation conducted by the commission are
2 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
3 I of the State Constitution and, except as otherwise provided
4 by law, such information shall be subject to public disclosure
5 only after a determination as to probable cause has been made
6 or until the investigation becomes inactive.

7 2. However, not more than 30 days before the results
8 of an investigation are to be presented to a probable cause
9 panel, an officer who is being investigated, or the officer's
10 attorney, may review any documents or other information
11 regarding the investigation which was developed by or provided
12 to the commission.

13 (c) When an officer's certification is revoked in any
14 discipline, his or her certification in any other discipline
15 shall simultaneously be revoked.

16 ~~(8)(7)~~ Upon a finding by the commission that a
17 certified officer has not maintained good moral character, the
18 definition of which has been adopted by rule and is
19 established as a statewide standard, as required by s.
20 943.13(7), the commission may enter an order imposing one or
21 more of the following penalties:

22 (a) Revocation of certification.

23 (b) Suspension of certification for a period not to
24 exceed 2 years.

25 (c) Placement on a probationary status for a period
26 not to exceed 2 years, subject to terms and conditions imposed
27 by the commission. Upon the violation of such terms and
28 conditions, the commission may revoke certification or impose
29 additional penalties as enumerated in this subsection.

30 (d) Successful completion by the officer of any basic
31 recruit, advanced, or career development training or such

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1 retraining deemed appropriate by the commission.

2 (e) Issuance of a reprimand.

3 (9)~~(8)~~(a) The commission shall, by rule, adopt
4 disciplinary guidelines and procedures to administer the
5 penalties provided in subsections(7) ~~(6)~~ and(8) ~~(7)~~. The
6 commission may, by rule, prescribe penalties for certain
7 offenses. The commission shall, by rule, set forth aggravating
8 and mitigating circumstances to be considered when imposing
9 the penalties provided in subsection(8) ~~(7)~~.

10 (b)1. The disciplinary guidelines and prescribed
11 penalties must be based upon the severity of specific
12 offenses. The guidelines must provide reasonable and
13 meaningful notice to officers and to the public of penalties
14 that may be imposed for prohibited conduct. The penalties must
15 be consistently applied by the commission.

16 2. On or before July 1 of each odd-numbered year, the
17 commission shall conduct a workshop to receive public comment
18 and evaluate disciplinary guidelines and penalties. The
19 commission chair shall appoint a 12-member advisory panel,
20 composed of six officers and six representatives of criminal
21 justice management positions, to make recommendations to the
22 commission concerning disciplinary guidelines.

23 (c) For the purpose of implementing the penalties
24 provided in subsections(7) ~~(6)~~ and(8) ~~(7)~~, the chair of the
25 commission may appoint one or more panels of three
26 commissioners each to determine probable cause. In lieu of a
27 finding of probable cause, the probable cause panel may issue
28 a letter of guidance to the officer.

29 (d) When an employing agency disciplines an officer
30 and the officer's employment is continued or reinstated by the
31 agency, the Criminal Justice Professionalism Program shall

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1 review the sustained disciplinary charges and disciplinary
2 penalty to determine whether the penalty conforms to the
3 disciplinary penalties prescribed by commission rule, and, in
4 writing, notify the employing agency and officer of the
5 results of the review. If the penalty conforms to the
6 disciplinary penalty provided by rule, the officer and
7 employing agency shall be notified, by a letter of
8 acknowledgment, that no further action shall be taken. If the
9 penalty does not conform to such disciplinary penalty
10 prescribed by rule, the officer and employer shall be
11 notified, in writing, of further action to be taken. The
12 commission shall adopt rules establishing procedures for
13 administering this subsection.

14 (e) An administrative law judge assigned to conduct a
15 hearing under ss. 120.569 and 120.57(1) regarding allegations
16 that an officer is not in compliance with, or has failed to
17 maintain compliance with, s. 943.13(4) or (7) must, in his or
18 her recommended order:

19 1. Adhere to the disciplinary guidelines and penalties
20 set forth in subsections (7) ~~(6)~~ and (8) ~~(7)~~ and the rules
21 adopted by the commission for the type of offense committed.

22 2. Specify, in writing, any aggravating or mitigating
23 circumstance that he or she considered in determining the
24 recommended penalty.

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26 Any deviation from the disciplinary guidelines or prescribed
27 penalty must be based upon circumstances or factors that
28 reasonably justify the aggravation or mitigation of the
29 penalty. Any deviation from the disciplinary guidelines or
30 prescribed penalty must be explained, in writing, by the
31 administrative law judge.

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1 ~~(10)(9)~~ Each person employed pursuant to s. 943.131 is
2 subject to discipline by the commission. Persons who have been
3 subject to disciplinary action pursuant to this subsection are
4 ineligible for employment or appointment under s. 943.131.

5 (a) The commission shall cause to be investigated any
6 conduct defined in subsection~~(7)~~ ~~(6)~~ or subsection~~(8)~~ ~~(7)~~ by
7 a person employed under s. 943.131 and shall set disciplinary
8 guidelines and penalties prescribed in rules applicable to
9 such noncertified persons.

10 (b) The disciplinary guidelines and prescribed
11 penalties must be based upon the severity of specific
12 offenses. The guidelines must provide reasonable and
13 meaningful notice to officers and to the public of penalties
14 that may be imposed for prohibited conduct. The penalties must
15 be consistently applied by the commission.

16 (c) In addition, the commission may establish
17 violations and disciplinary penalties for intentional abuse of
18 the employment option provided by s. 943.131 by an individual
19 or employing agency.

20 ~~(11)(10)~~ An officer whose certification has been
21 revoked pursuant to this section shall be ineligible for
22 employment or appointment under s. 943.131.

23 Section 2. Subsection (5) of section 943.22, Florida
24 Statutes, is amended to read:

25 943.22 Salary incentive program for full-time
26 officers.--

27 (5) An officer is not entitled to full or proportional
28 salary incentive payments for training completed pursuant to
29 s. 943.1395~~(8)~~ ~~(7)~~.

30 Section 3. This act shall take effect July 1, 2006.

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